

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

CHRISTOPHER REYNOLDS,)	
)	
Plaintiff,)	
)	
v.)	No. 08 CV 2115
)	
INTER-INDUSTRY CONFERENCE ON)	Judge David H. Coar
AUTO COLLISION REPAIR)	
(a/k/a I-CAR),)	
)	
Defendant.)	

DEFENDANT’S PARTIAL MOTION TO DISMISS COMPLAINT

Defendant Inter-Industry Conference on Auto Collision Repair (a/k/a I-CAR) (“I-CAR”) hereby submits its Partial Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), and states as follows:

1. Count I of Plaintiff’s Complaint alleges that I-CAR violated the Family Medical Leave Act (“FMLA”) by discharging Plaintiff after he requested leave.
2. Plaintiff admits in his Complaint that he was not eligible for FMLA leave during his employment with I-CAR because he had not worked for it for twelve months.
3. Because Plaintiff was not an “eligible employee” within the plain meaning of 29 U.S.C. § 2617 (a)(1), his claim against I-CAR for FMLA violations must be dismissed
4. In further support of this motion, I-CAR refers the Court to the accompanying Defendant’s Memorandum of Law in Support of Partial Motion to Dismiss Complaint.

Respectfully Submitted,

Inter-Industry Conference on Auto Collision Repair

By: /s/ Tiana F. Nell
One Of Its Attorneys

John M. Dickman
Tiana F. Nell
WINSTON & STRAWN LLP
35 West Wacker Drive
Chicago, Illinois 60601
ph: 312-558-5600
f: 312-558-5700
tnell@winston.com

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of June, 2008, I caused a copy of the foregoing to be served on the following counsel for Plaintiff through the Court's electronic filing system:

Erika Petersen
Jill Pedersen
Pedersen & Weinstein LLP
309 W. Washington St., Suite 1200
Chicago, IL 60606

_____/s/ Tiana F. Nell_____